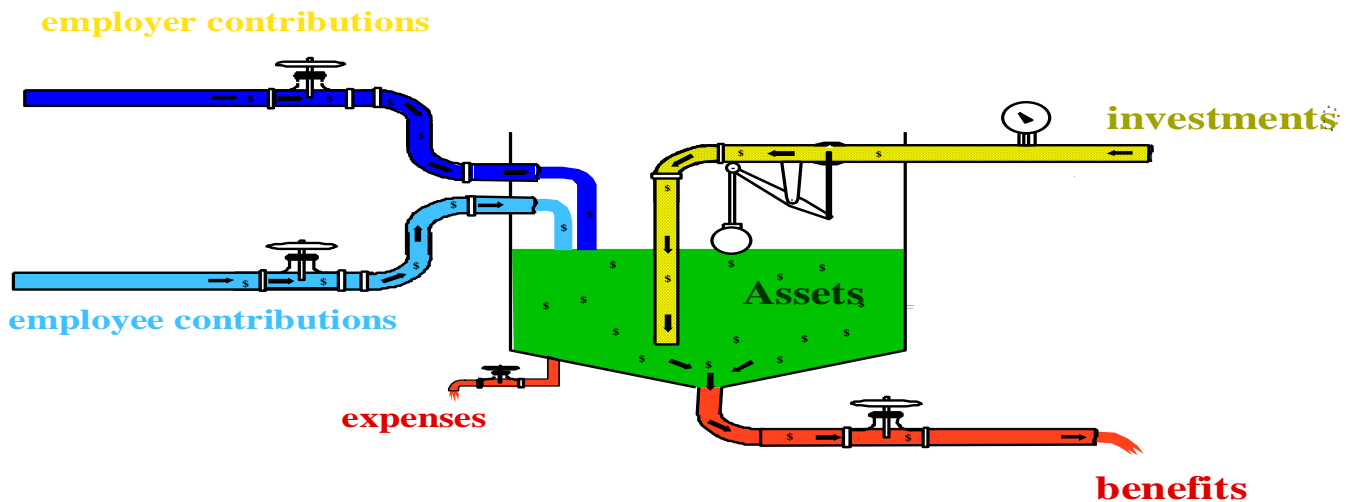


MONTANA TEACHERS' RETIREMENT SYSTEM

Teachers' Retirement Board Meeting
May 8, 2008

Legislative Concepts

FUNDING PRINCIPLE



Investment Returns*

<i>Fiscal Year Ending</i>	<i>Market Returns</i>	<i>Amortization Period</i>
June 30, 1999	11.9%	
June 30, 2000	7.8%	15.10
June 30, 2001	(5.1)%	
June 30, 2002	(7.3)%	23.4
June 30, 2003	6.16%	
June 30, 2004	13.3%	> 30.0 years
June 30, 2005	8.04	> 30.0 years
June 30, 2006	9.05	> 30.0 years
June 30, 2007	17.64	28.6 years

* Effective July 1, 2004 the annual investment rate of return is assumed to be 7.75% per year, compounded annually. Anything less is a loss, and will eventually increase the amortization period if not offset by future gains, contribution increase, or reduction in benefits. Gains and losses are "smoothed" over 4 years.

David L. Senn, Executive Director
406/444-3376
E-Mail dsenn@mt.gov

Tammy Rau, Deputy Director
406/444-3432
E-Mail trau@mt.gov

2009 TRS FUNDING PROPOSAL

1. Working Retirees – Recalculation of Retirement Benefits

When a retiree returns to work, his benefits are canceled and a new benefit is calculated when he/she again retires. This re-calculation can result in a benefit increase that is often underfunded. We found over 100 retirees who had returned to work since 1992 and re-retired with an average of 2.98 additional years, which resulted in an average benefit increase of \$469.01 when recalculated the second time. It has been suggested that legislation be proposed to suspend benefits upon full-time reemployment after July 1, 2009, and when the member again retires that, a second benefit be calculated based on any additional service earned and the new average final compensation. The second benefit would be added to the original benefit (see last two columns in table below). In addition, the retiree would not be allowed to change the retirement option he originally elected. Currently around 160 retirees have returned to work who would **not** be impacted by any proposed change.

The following table includes examples of benefits that have been recalculated following a rehire and subsequent retirement. The table shows the original retirement date, the second retirement date, the new Average Final Compensation (AFC) and the additional service earned the second time, the original benefit, and the recalculated benefit. The last two columns show how benefits could be affected if the proposed option was adopted.

1ST DATE RETIRED	2 ND DATE RETIRED	NEW AFC	ADD'L SVC	Original Benefit	New Benefit	Increase		Proposed Increase	Proposed Benefit
5/1/1988	7/1/1999	\$ 61,711.88	9.44	\$ 377.49	\$2,311.62	\$1,934.13		809.11	1,186.60
10/1/1997	7/1/2005	\$ 60,799.90	3.00	\$2,173.35	\$2,805.24	\$ 631.89		253.33	2,426.68
7/1/1998	7/1/2006	\$122,400.00	3.00	\$3,306.69	\$5,780.00	\$2,473.31		510.00	3,816.69
6/1/1997	7/1/2003	\$ 70,641.09	5.00	\$1,722.88	\$3,063.08	\$1,340.20		490.56	2,213.44
7/1/1993	7/1/1997	\$ 42,194.67	3.00	\$1,316.07	\$1,580.54	\$ 264.47		175.81	1,491.88
7/1/1992	7/1/2005	\$ 43,262.00	1.00	\$ 659.22	\$ 839.40	\$ 180.18		60.09	719.30

2. Splitting TRS/PERS Positions

We recently discovered situations where a single position was split into two contracts, one TRS the second PERS, or the job description was changed to a PERS position, with a retired TRS member hired under the new contracts. In theory, splitting TRS positions or changing the classification of a position so that a retired TRS member could continue to be employed full-time (either under two contracts or assigned to PERS) would result in members drawing retirement benefits prior to when they would normally have retired. If members could start drawing their TRS benefits earlier than normal, the System would pay more benefits over the retiree's lifetime, collect fewer contributions and earn less investment income, thus increasing the cost to fund benefits.

Attached are examples of retire/rehire funding controls used by a few other retirement systems to curb the unfunded liabilities created when a retiree is rehired. Hopefully, a solution to the above two issues can be found in studying what other states have done.

3. Retirement Effective Dates – May/June Terminations

The TRS Board also discovered a situation that allows members to terminate their contract early in order to be eligible for benefits one month earlier. Therefore, it is suggested that the law be changed to state that if a member terminates within 30 days of the last day of the school year they would be deemed to have terminated at the end of their contract. Retirement benefits would then be effective the first of the month following the last day of the school year.

2009 TRS HOUSEKEEPING LEGISLATION

1. Compliance with the Internal Revenue Code – Pension Protection Act of 2006

o Normal Retirement Age

The current TRS definition of normal retirement age is: any age with at least 25 years of service, or age 60 with at least 5 years of service. Under new IRS regulations, effective July 1, 2009, this definition will no longer be acceptable. The regulations provide that “normal retirement age” must be an **age** that is “not earlier than the earliest age that is reasonably representative of the “typical retirement age” for the industry in which the covered workforce is employed”. Several safe harbors are provided in the 2006 Pension Protection Act, under which a normal retirement age of at least age 62 is deemed to meet this new “typical retirement age” standard. For plans with normal retirement ages between ages 55 and 62, there will be a presumption that they are acceptable based on a “good faith determination of the typical retirement age for the industry in which the covered workforce is employed”. For a normal retirement age that is lower than age 55, there is a presumption that it does not meet the new standard “absent facts and circumstances that demonstrate otherwise”.

Pending further guidance from IRS, we tentatively plan to change the TRS definition of normal retirement age to mean an age not less than 55 and eligible for unreduced retirement benefits. This change will not affect the calculation of benefits or the amount members less than age 55 are currently eligible to receive. However, for members wishing to return to work who are not “normal retirement age” IRS requires that the member have a “bona fide separation” from service. Under the IRS regulations, a “bona fide separation” from service would mean that a member less than age 55 or ineligible for unreduced benefits could not be reemployed in any capacity with their same employer, or be guaranteed reemployment in any capacity with their same employer (including any part-time employment). If the member is reemployed before they receive their first TRS monthly benefit, or are guaranteed reemployment, they are considered to have continued in the status of an active member and are ineligible to receive retirement benefits.

- Roth IRAs

The Pension Protection Act of 2006 allows members who have terminated and are withdrawing their account to rollover their account balance to a Roth IRA. The Board proposes to change the withdrawal provisions of the TRS act to allow for a Roth IRA rollover.

2. Defining Full-Time Service to include Alternative School Calendars

With the change in accreditation standards during the 2005 Legislative Session eliminating the requirement that districts have at least 180 days of pupil instruction, we have seen a number of school calendars that include less than 180 days. These calendars in some cases result in teachers being compensated for less than 180 days, which could result in teachers receiving less than a full year's service credit under the TRS. The TRS defines full time service as 180 days, or 140 hours per month over at least 9 months during the fiscal year. Therefore, legislation will be proposed to clarify that full-time teachers working under an alternative school calendar are entitled to a full year service credit in TRS.

3. Family Law Orders – Clean up

Clarification of “actuarial equivalent” and “fixed” amounts. When benefits are divided in the case of divorce, benefits can be paid to the alternate payee for their life or in a fixed monthly amount over a certain period. Current law was amended extensively in 2007, and minor changes are necessary to clarify the payment options available.

4. Membership Eligibility

- Community Colleges – Clarify that teachers and administrators of the Community Colleges are eligible for TRS membership.
- Dean of Students – Add Dean of Students to the list of positions eligible for membership in TRS.

2009 OTHER TRS LEGISLATION

1. Professional Retirement Option – 2.0% Multiplier

The MEA-MFT will pursue the 2.0% Professional Retirement Option. Under this proposal, effective July 1, 2011, TRS members who work 30 or more years and are age 55 or older when they retire will receive a benefit based on a 2.0% multiplier instead of the normal 1.667% multiplier. The anticipated cost of the proposal is over 2.0% of salary.

RETIRE-REHIRE EXAMPLES

North Dakota: Both the employer and retiree are required to notify System in writing within 30 days of the retiree's employment. Notification must be made each year the retiree is employed. Failure to notify the System will result in the loss of one month's benefit for the retiree and \$250 penalty to the employer. After a minimum of a 30-day break in service, retirees may return to work for a limited number of hours, 700 - 1,000, depending on the length of their contract, i.e., 9 months to 12 months. If the retirees exceed the annual hour limit, benefits are suspended, and both the employee and employer contribute on the salary earned by the retiree into a second account. If the member works less than 2 years, they will only receive the original benefit, plus any cost of living increases granted, and a refund of the additional employee and employer contributions plus interest. If the retire works between 2-5 years, they will receive the greater of the discontinued annuity, plus additional years at the new multiplier, plus benefit increases granted during the suspension, **or** all the years recalculated at the new multiplier, less an actuarial offset for the amount of benefits already paid. After five or more years, they receive the greater of the calculation above or the retirement benefit recalculated using all the years at the new multiplier with no actuarial offset.

Kansas: The retiree goes back to work for the same district from which he or she retired, the retiree is limited to making \$20,000 per year. If the retiree is employed by another district, there is no earnings limit, but the new employer is required to pay a surcharge to the state equating to approximately 15 percent of the rehired retiree's salary. That amount is calculated to reimburse the pension system for what this employee would be contributing if he or she had not retired and is already drawing a pension. Either way, the employee must wait 30 days after retiring before starting to work again and does not contribute to the System or earn additional retirement benefits.

Kentucky: If a retiree returns to work full-time for their previous employer, they are required to have a one-year break in service before starting a new job. If a retiree returns to work part-time or for a different employer, they are required to have a three month break in service. In addition, how much a reemployed retiree can make upon reentering the work force is limited to 75% of their last daily rate of pay prior to retirement for retirees with 30 years of service, and 65% of pay for retirees with less than 30 years of service. Rehired retirees in Kentucky must also open a new retirement pension account, to which they contribute upon re-entry. Retired teachers also have the option of suspending their current retirement benefits, returning to full-time work, and contributing more money into this second account.

Idaho: If you retire early (before age 65 general members), you may not retire and then return to work for the same employer within 90 days. In addition, there can be no promise of reemployment with that employer at the time of retirement. Retirees may work for a different PERSI employer for less than 20 hours per week (less than ½ contract for teachers). If a retiree works for 20 hours or more per week for 5 consecutive months or longer, they are returned to active member status. Plus, both employer and employee contributions for all months worked will be due to PERSI, and any retirement benefit paid after the retiree returned to work must be reimbursed to PERSI.

When member retires the second time, their original retirement allowance will resume plus an additional allowance calculated on the service earned during the period of reemployment. (If that period of reemployment turns out to be less than 5 months, the members contributions made during that time will be returned and the original retirement allowance will be paid from the date it was discontinued.)

Iowa: Retirees are required to have a four-month break in service before re-entering the work force. If they go back to work for a school and wish to continue to receive their pensions, their salary is capped at \$30,000 a year. If an investigation finds that a district has worked through an independent contractor to allow higher-salary payments for retirees or that a retiree was working during the required four-month layout period, both the rehired retiree and the district are sanctioned by the state.

Washington: Plan 1 retirees can work 867 hours before benefits are suspended. However, if the employer has a written policy regarding hiring retirees, has an established process approved by the School Board, and the employer documents the need to hire a retiree, the retired member can work up to 1,500 hours before their benefits are suspended, provided the retiree has a break in service of between 30 and 90 days, depending on their date of retirement. In addition, TRS Plan 1 retirees are now subject to a lifetime limit of 1,900 hours. Once the 1,900-hour limit is reached, the benefit will be suspended for work beyond 867 hours within each fiscal year.

Wisconsin: In order to be eligible to receive benefits under Wisconsin's retirement system, the employer-employee relationship must be permanently severed for at least 30 days with no subsequent intent to return to work. Should an individual in Wisconsin be found to have knowingly presented false or fraudulent proof in support of a claim for benefits, he or she will be guilty of a felony punishable by a fine of up to \$10,000, imprisonment for up to two years, or both. If a retiree subsequently decides to return to work after a valid termination of employment, he or she can choose whether to continue to receive the pension benefit or suspend the annuity in order to become a participating employee once again and contribute to the previous retirement account.

Wyoming: A retiree may be rehired if they have at least a 30-day break in service and all contributions due have been submitted to the System. The retiree may elect to continue to receive benefits or discontinue benefits and be reinstated as a contributing member. If the retiree elects to continue to receive retirement benefits, their employer is required to contribute to the retirement system a fee equal to the combined employee and employer contribution rates. If a retiree is reinstated as a contributing member of the System, the member's benefit, upon retiring a second time, will be recalculated crediting the additional contributions. The new benefit will be based on the same option and survivor used in the original retirement.

In addition to the above examples a few states make exceptions where critical shortage areas exist. These exceptions come with their own unique limits on earnings, part-time versus full-time employment, and the length of time a retiree can be reemployed.